

1 COOLEY LLP
BOBBY GHAJAR (198719)
2 (bghajar@cooley.com)
COLETTE GHAZARIAN (322235)
3 (cghazarian@cooley.com)
1333 2nd Street, Suite 400
4 Santa Monica, California 90401
Telephone: (310) 883-6400
5 MARK WEINSTEIN (193043)
(mweinstein@cooley.com)
6 KATHLEEN HARTNETT (314267)
(khartnett@cooley.com)
7 JUDD LAUTER (290945)
(jlauter@cooley.com)
8 ELIZABETH L. STAMESHKIN (260865)
(lstameshkin@cooley.com)
9 3175 Hanover Street
Palo Alto, CA 94304-1130
10 Telephone: (650) 843-5000
11 LEX LUMINA PLLC
MARK A. LEMLEY (155830)
12 (mlemley@lex-lumina.com)
745 Fifth Avenue, Suite 500
13 New York, NY 10151
Telephone: (646) 898-2055
14 CLEARY GOTTlieb STEEN & HAMILTON LLP
ANGELA L. DUNNING (212047)
15 (adunning@cgsh.com)
1841 Page Mill Road, Suite 250
16 Palo Alto, CA 94304
Telephone: (650) 815-4131
17 *Counsel for Defendant Meta Platforms, Inc.*

18
19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**
21 **SAN FRANCISCO DIVISION**

22 RICHARD KADREY, *et al.*,
23 Individual and Representative Plaintiffs,
24 v.
25 META PLATFORMS, INC., a Delaware
corporation;
26 Defendant.
27

Case No. 3:23-cv-03417-VC-TSH

**JOINT ADMINISTRATIVE MOTION TO FILE
UNDER SEAL JOINT DISCOVERY LETTER
BRIEF AND EXHIBITS**

Pursuant to Civil Local Rule 79-5(c) and 79-5(d), Plaintiffs Richard Kadrey, Sarah Silverman, Christopher Golden, Ta-Nehisi Coates, Junot Diaz, Andrew Sean Greer, David Henry Hwang, Matthew Klam, Laura Lippman, Rachel Louise Snyder, Jacqueline Woodson, and Lysa TerKeurst (collectively, “Plaintiffs”) and Defendant Meta Platforms, Inc. (“Meta”) (collectively, the “Parties”) hereby jointly move this Court for an Order allowing the partes to file under seal confidential, unredacted versions of certain documents relating to the Parties’ Joint Letter Brief on Meta’s Motion to Compel (“Joint Letter Brief”). The Parties respectfully submit that compelling reasons exist for the filing of these documents under seal. The motion is based on the following Memorandum of Points and Authorities and the Declarations of Michelle Woodhouse in support of this Joint Administrative Motion to File Under Seal.

The following chart lists the documents for which the Parties request sealing – in whole or in part – in order to protect Meta’s confidential business information.

Document	Sealing Request
Joint Discovery Letter Brief	<ul style="list-style-type: none"> Redacted portions
Exhibit 1 to Joint Discovery Letter Brief	<ul style="list-style-type: none"> Redacted portions
Exhibit 2 to Joint Discovery Letter Brief	<ul style="list-style-type: none"> Redacted portions
Exhibit 4 to Joint Discovery Letter Brief	<ul style="list-style-type: none"> Redacted portions

A [Proposed] Order is filed concurrently herewith, and the Parties refer the Court to the Joint Letter itself and the supporting evidence attached thereto as further support for this Joint Administrative Motion.

I. LEGAL ARGUMENT

Though the presumption of public access to judicial proceedings and records is strong, it “is not absolute.” *Nixon v. Warner Commc’ns. Inc.*, 435 U.S. 589, 598 (1978). The Ninth Circuit treats documents “attached to dispositive motions differently from records [*i.e.*, documents] attached to non-dispositive motions.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006); *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d 1092, 1098 (9th Cir. 2016). For non-dispositive motions, such as the Parties’ Joint Letter Brief, the “good cause” standard applies.

1 *OpenTV v. Apple*, No. 14-cv-01622-HSG, 2015 WL 5714851, at *2 (N.D. Cal. Sept. 17, 2015);
 2 *Kamakana*, 447 F.3d at 1180 (“A ‘good cause’ showing will suffice to seal documents produced in
 3 discovery.”). The Federal Rules afford district courts “flexibility in balancing and protecting the
 4 interests of private parties.” *Kamakana*, 447 F.3d at 1180; *DSS Tech. Mgmt. v. Apple*, No. 14-cv-
 5 05330-HSG, 2020 WL 210318, at *8 (N.D. Cal. Jan. 14, 2020), *aff’d*, 845 F. App’x 963
 6 (Fed. Cir. 2021) (finding good cause to seal “confidential business and proprietary information”).

7 The portions of the Joint Letter Brief and Exhibits 1, 2, and 4, attached thereto, contain
 8 confidential information of Meta, of which Meta requests sealing.

9 Exhibits 1 and 2 comprises excerpts of deposition testimony of Meta witnesses, Dr.
 10 Eleonora Presani and Dr. Melanie Kambadur, about internal Meta projects relating to AI
 11 development, including highly sensitive information regarding the technical development and
 12 components of Meta’s AI models and regarding communications regarding potential partnerships
 13 with third parties regarding AI development. Exhibit 4 is Plaintiffs’ Rule 30(b)(6) notice, which
 14 references sensitive, highly confidential information regarding Meta’s technical development and
 15 potential plans that have not been disclosed to the public.

16 The portions of the Joint Letter Brief that the Parties seek to redact quote from or describe
 17 the contents of Exhibits 1, 2, and 4, as well as the contents of previously sealed ECF Nos. 162-4,
 18 162-5, 162-11, 162-12, 162-13, 162-14 (*see* ECF Nos. 161, 161-1, 161-2, 172).

19 As this information is highly confidential, Meta must request sealing of these materials.
 20 Meta takes steps to carefully protect the confidentiality of information of this sort because the
 21 disclosure of such information has the potential to cause significant competitive injury to Meta.
 22 *See, e.g., Krieger v. Atheros Commc’ns, Inc.*, No. 11-CV-640-LHK, 2011 WL 2550831, at *1 (N.D.
 23 Cal. Jun. 25, 2011) (finding information regarding party’s “long-term financial projections,
 24 discussions of business strategy, and competitive analyses” sealable); *Space Data Corp. v. Alphabet*
 25 *Inc.*, No. 16-CV-03260-BLF, 2019 WL 285799, at *1 (N.D. Cal. Jan. 22, 2019) (finding
 26 information regarding party’s confidential and proprietary technical information, and sensitive
 27 financial information sealable). These sealing requests are critical to protect Meta’s confidential
 28 sensitive technical and competitive information.

1 The specific basis for sealing these materials is outlined in the accompanying declaration
2 of Meta’s Associate General Counsel, Michelle Woodhouse, as well as ECF No. 161, 161-1, and
3 161-2 (which detail the basis for sealing quoted or described highly sensitive information from ECF
4 Nos. 162-4, 162-5, 162-11, 162-12, 162-13, and 162-14). As outlined in Ms. Woodhouse’s
5 declaration, disclosure of the protected information contained in the materials the Parties seek to
6 seal would work competitive harm to Meta if this information is publicly disclosed. The Parties’
7 sealing requests and proposed redactions are narrowly tailored to include only that information
8 which would cause specific, articulable harm, as identified in Ms. Woodhouse’s declaration. In
9 each instance, the harm to Meta outweighs the public’s interest in disclosure. *See, e.g., In re iPhone*
10 *App. Litig.*, No. 11-md-02250-LHK, 2013 WL 12335013, at *2 (N.D. Cal. Nov. 25, 2013) (granting
11 motion to seal where the defendant’s interest in “maintaining the confidentiality of information
12 about its technology and internal business operations” outweighed that of the public in accessing
13 such documents).

14 **II. CONCLUSION**

15 Pursuant to Civil Local Rule 79-5, redacted and unredacted versions of the above-listed
16 documents accompany this Administrative Motion. For the foregoing reasons, the Parties
17 respectfully request that the Court grant their Joint Administrative Motion to Seal.

1 Dated: September 30, 2024

COOLEY LLP

2
3 By: /s/ Elizabeth L. Stameshkin

4 Bobby Ghajar
5 Mark Weinstein
6 Kathleen Hartnett
7 Judd Lauter
8 Liz Stameshkin
9 Colette Ghazarian

10 LEX LUMINA PLLC
11 Mark A. Lemley

12 CLEARY GOTTlieb STEEN &
13 HAMILTON LLP
14 Angela L. Dunning

15 Attorneys for Defendant
16 META PLATFORMS, INC.

17 Dated: September 30, 2024

JOSEPH SAVERI LAW FIRM, LLP

18 By: /s/ Joseph R. Saveri

19 Joseph R. Saveri
20 Cadio Zirpoli
21 Christopher K.L. Young
22 Holden Benon
23 Aaron Cera

24 Matthew Butterick

25 Attorneys for Plaintiffs
26 RICHARD KADREY, SARAH
27 SILVERMAN, and CHISTOPHER
28 GOLDEN

1 Dated: September 30, 2024

CAFFERTY CLOBES MERIWETHER &
SPRENGEL, LLP

2
3 By: /s/ Bryan L. Clobes

4 Bryan L. Clobes (*pro hac vice*)
5 Alexander J. Sweatman (*pro hac vice*)
6 Mohammed A. Rathur (*pro hac vice*)

7 VENTURA HERSYE & MULLER, LLP
8 Daniel J. Muller

9 Attorneys for Plaintiffs
10 TA-NEHISI COATES, JUNOT DIAZ,
11 CHRISTOPHER GOLDEN, RICHARD
12 GREER, DAVID HENRY HWANG,
13 MATTHEW KLAM, LAURA LIPPMAN,
14 RACHEL LOUISE SNYDER, and
15 JACQUELINE WOODSON

16 Dated: September 30, 2024

DICELLO LEVITT LLP

17 By: /s/ David A. Straite

18 David A Straite (*pro hac vice*)
19 Nada Djordjevic (*pro hac vice*)

20 Attorneys for Plaintiff LYSA
21 TERKEURST

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(h)

I hereby attest that I obtained concurrence in the filing of this document from each of the other signatories. I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 30, 2024

COOLEY LLP

/s/ Elizabeth L. Stameshkin

Attorneys for Defendant
Meta Platforms, Inc.